IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO.282 OF 2006
WITH
COMPANY APPLICATION NO.636 OF 2006

Tube Glass Containers Ltd., ..Petitioners

Versus

Magna Laboratories (Gujarat) P.Ltd..Respondents

Mr.Sandeep Parikh with Ramesh Saraogi for the petitioners.

Ms.Prachi Tatake for respondents.

Coram : R.S.Mohite,J

Date : 8.12.2006.

PC

1. This is a petition for winding up of the respondent-company. The claim is for Rs.7,91,843/- for goods sold and delivered. The company has accepted the receipt of the goods. The contention raised is since the supply was stopped, the respondent-company sufferred damages. Those damages will have to be established. I find that in the letter accepting the offer, there is a clause which says that increase in manufacturing and other costs will be added to the price. In the circumstances, prima facie case is made out for admission. The respondents are given 12 weeks time to make the payment of the claim amount which is in fact, at reduced interest of 12%. In case the amount is deposited the Company Petition to stand dismissed.

The respondent-company will be at liberty to file a suit for damages and in case any such suit is filed, the amount which is deposited will stand transferred to the suit account. In case no such suit is filed within 12 weeks, the petitioners will have liberty to withdraw the amount if deposited without furnishing any security. If however, the amount is not deposited, the petition to stand admitted. The same will be advertised in the Free Press Journal, Navshakti as well as in the official Gazattee. If the petition is admitted, the petitioners will deposit amount of Rs.5000/- to meet the cost of publication. If the main petition is dismissed, then the Company application also to stand dismissed.

(R.S.Mohite,J)